

**UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 21**

MV TRANSPORTATION, INC.

Employer

and

Case 05-RC-210354

The Office & Professional Employees International Union,
Local 2, AFL-CIO

Petitioner

MOTION TO RESCHEDULE THE HEARING UNTIL DECEMBER 4, 2017

The Employer, through its attorney, Kerry Martin, files this Motion to Change the date of the Hearing on the above referenced matter, currently set for Thursday November 30, 2017 and states as follows:

1. The Office & Professional Employees International Union, Local 2, AFL-CIO (the “Union”) filed the instant Petition the day before Thanksgiving—Wednesday November 22, 2017.
2. Correspondence from the Region dated November 22, 2017, indicates that the Union’s Petition and corresponding paperwork was mailed and emailed to Donna Harper at MV Transportation on that same date. However, Ms. Harper has no recording of receiving an email from the Region on or about November 22, 2017. The first correspondence Ms. Harper received from the Region was an email from Jose Masini late in the afternoon on Monday November 27, 2017. **[Exhibit 1.]**
3. It appears that the Region mailed a copy of the Union’s Petition and corresponding paperwork to Ms. Harper’s attention at the Company’s corporate office in Dallas, Texas on Wednesday November 22, 2017. **[Exhibit 2.]** The Company’s corporate office was closed for the Thanksgiving Holiday on Thursday November 23 and Friday November 24, 2017. The U.S. Postal Service was also closed in observe of the Thanksgiving Holiday on Thursday November 24, 2017. The Company did not receive the correspondence from the Region until Monday November 27, 2017. Also, Ms. Harper does not physically work at the Company’s corporate office in Dallas, Texas and she did not receive a copy of the Region’s correspondence until it was forwarded to her this morning.
4. For some unknown reason, the Union identified Ms. Harper as the Company representative in this matter. Ms. Harper, however, is not the MV employee who oversees the labor and employment issues at the Company’s facility in question—a fact the Union is certainly aware of. The Company correct representative for this matter is Donna Snowden, Director Labor & Human Resources.

5. The factors listed above (i.e., the Union's filing of the Petition the day before the Thanksgiving holiday, the closure of mail service on Thanksgiving, the closure of the Company's corporate office for the Thanksgiving holiday, etc...) delayed the Company's receipt of the Region's correspondence regarding the Union's Petition by several days.
6. A hearing related to the Union's petition is currently scheduled to take place on Thursday November 30, 2017 in Washington, D.C.
7. The Company intends to contest the Union's Petition on the basis the employees in the proposed unit are supervisors under the National Labor Relations Act. However, the Company only became aware of the hearing late in the afternoon on Monday November 27, 2017.
8. The delay in the receipt of the information and documents related to the Union's petition substantially prejudices the Company's ability to plan and prepare for the hearing. In addition, undersigned counsel must make travel arrangements from Phoenix, Arizona to Washington, D.C. and the Company may have to bring in other witnesses from out of state.
9. I have e-mailed David R. Levinson, attorney for the Union, regarding the Company's request to reschedule the hearing and he has not responded to my inquiry. **[Exhibit 3.]** I have also served a copy of this Motion on Mr. Levinson via email.
10. I respectfully request that the hearing be rescheduled to Monday December 4, 2017, or some appropriate date thereafter.

Dated this 28th day of November, 2017.

OGLETREE, DEAKINS, NASH, SMOAK &
STEWART, P.C.

By s/Kerry S. Martin
Kerry S. Martin
2415 East Camelback Road, Suite 800
Phoenix, Arizona 85016
Attorneys for Respondent AlSCO, Inc.

ORDER

National Labor Relations Board GRANTS the Motion to Postpone the Hearing and has set the hearing for _____.

Dated:

By: _____

31018291.1

Exhibit 3

Martin, Kerry S.

From: Martin, Kerry S.
Sent: Tuesday, November 28, 2017 12:12 PM
To: Jose.Masini@nlrb.gov; 'levlaw@gmail.com'
Subject: MV Transportation 05-RC-210354

Importance: High

Messiers Masini and Levinson,

I am outside counsel from MV Transportation and will represent the Company in this matter. The Company intends to request that the hearing currently scheduled for this Thursday be rescheduled to Monday December 4 or some agreeable date thereafter. Please provide me with your respective positions on the Company's request so that I may include it in the Company's petition. Thank you.

Kerry S. Martin | Ogletree, Deakins, Nash, Smoak & Stewart, P.C.

Esplanade Center III, 2415 East Camelback Road, Suite 800 | Phoenix, AZ 85016 | Telephone: 602-778-3715 | Fax: 602-778-3750

kerry.martin@ogletreedeakins.com | www.ogletree.com | [Bio](#)

Exhibit 1

Martin, Kerry S.

Subject: FW: MV Transportation 05-RC-210354

From: Masini, Jose [<mailto:Jose.Masini@nrlrb.gov>]
Sent: Monday, November 27, 2017 4:12 PM
To: Donna Harper <dkharper@mvtransit.com>
Cc: barry.reiling@mvtransit.com
Subject: MV Transportation 05-RC-210354

Ms. Harper:

Will you be handling the representation petition in this matter, or is there someone in particular I should contact? There is a hearing presently scheduled for this Thursday at 9AM.

Regards,

José A. Masini
Field Attorney
National Labor Relations Board
Washington Resident Office
1015 Half Street SE, Suite 6020
Washington, D.C. 20570
(202) 273-1041

Exhibit 2

U
N
NATIONAL LABOR RELATIONS BOARD
REGION 5
BANK OF AMERICA CENTER - TOWER II
100 SOUTH CHARLES STREET, SUITE 600
BALTIMORE, MD 21201-2700
An Equal Opportunity Employer

OFFICIAL BUSINESS



Ms. Donna Harper
Director of Human Resources and
Labor Relations
MV Transportation, Inc.
2711 N. Haskell Avenue, Suite 1500 LB-2
Dallas, TX 75204